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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN - 5 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of Part 90 of the
Commission's Rules to Facilitate
Future Development of SMR
Systems in the 800 MHz
Frequency Band

)
) PR Docket No. 93-144
) RM-8117, RM-8030
) RM-8029
)
)

Implementation of Section 309(j)
of the Communications Act -
Competitive Bidding
800 MHz SMR

)
)
) PP Docket No. 93-253
)
)

To: The Commission

COMMENTS

1. Douglas L. Bradley and Dennis Hulford (Bradley and Hulford), by their attorney, hereby submits their comments in response to the Commission's Further Notice of Proposed Rulemaking in the above-captioned proceeding. Bradley and Hulford do not support the Commission's proposal with respect to the restructuring of the 800 MHz band and the implementation of competitive bidding, or auctions, of certain portions of the 800 MHz band. Bradley and Hulford believe that the Commission should not make any changes in the present licensing procedures governing 800 MHz SMR systems until critical issues related to, but not addressed by, the Commission's proposal can be reviewed and reconsidered. In support of Bradley and Hulford's position, the following is shown.

2. Bradley and Hulford are new Commission licensees with conventional 800 MHz SMR facilities at Roanoke, Virginia and Greenville, Alabama. Bradley and Hulford are SMR entrepreneurs who are entering the SMR industry with the hope to establish and develop their respective businesses while serving the communications needs of the Roanoke, Virginia and Greenville, Alabama communities.

3. The Commission's proposal to restructure the 800 MHz SMR band into two disparate categories, which are licensed differently and have differing opportunities for system growth, will have a severe, negative impact on small 800 MHz operators such as Bradley and Hulford. Bradley and Hulford fear that the Commission's proposal to divide the 800 MHz SMR spectrum into two bandwidths, 200 channels for nation wide, enhanced SMR use and 80 channels for dispatch use, will seriously interfere with Bradley and Hulford's ability, as well as the ability of all small dispatch SMR operators, to provide effective and reliable SMR service to their customers.

4. The Commission has not offered any systematic plan for the smooth transition of SMR dispatch users from their operation on their presently licensed 800 MHz frequencies and associated equipment to new facilities. Although Bradley and Hulford are licensed on conventional SMR channels, i.e., on "lower 80" SMR channels, Bradley and Hulford cannot detect from the language of the Commission's proposal whether and to what

extent they might have to relocate or might be forced out of operation all together by the Commission's reorganization of the 800 MHz SMR band. For this reason, reallocation of this type is clearly not in the public interest.

5. Bradley and Hulford also foresee that large, nationwide competitors, licensed on blocks of 800 MHz spectrum, could cause an artificial spectrum shortage that would prevent local SMR operators from expanding their systems. The Commission's proposal, in effect, limits non-nationwide, dispatch SMR licensees to operation only on the "lower 80" channels of the 800 MHz SMR band.

6. Bradley and Hulford realize the negative impact that the warehousing of spectrum by nationwide SMR operators could have on dispatch operators across the country who wish to expand their systems to accommodate a growing customer base, but cannot expand because there are only 80 channels available for dispatch use. There is no provision in the Commission's proposal which addressed any opportunity for small, dispatch SMR operations to expand after the 80 SMR dispatch channels are depleted in a given area.

7. According to the proposed changes to the Commission's rules, 800 MHz nation wide operators will be licensed for exclusive blocks of spectrum that cannot be used by any other operator, even if the nationwide SMR operator does not choose to

operate its system in a given community. Bradley and Hulford fear for their livelihood and for that of their dispatch compatriots across the country who face the possibility of being relegated to a bandwidth which is one-third the size of the present SMR bandwidth, and which does not appear to afford any opportunity for system growth.

8. The reallocation to different SMR channels is not only limiting to dispatch operations, it is also very expensive. The FCC's proposed changes in the rules do not provide for remuneration to displaced SMR operators who would be relocated from their present, licensed systems to the "lower 80" channels at the convenience of the larger, nationwide competitors.

9. Bradley and Hulford have invested substantial sums in establishing their fledgling SMR operations. It would be inconvenient and expensive for Bradley and Hulford to relocate their systems to new SMR channels. Bradley and Hulford also fear that, if the Commission's proposal is adopted, dispatch operators such as themselves might lose the flexibility in channel selection that they need to to effectively operate.

16. The Commission's proposal to restructure the allocation procedures governing 800 MHz SMR spectrum to create two disparate bandwidths and to force local, dispatch SMR operators to relocate their systems to the "lower 80" SMR channels is unfair, impractical and antithetical to the Commission's

objective of serving the public interest. Bradley and Hulford request that the Commission review its proposal with respect to the impact it would have on local, dispatch SMR systems.

17. For the foregoing reasons, the Commission's proposal to reallocate 800 MHz SMR spectrum on a nationwide and local service basis should not be adopted.

Respectfully Submitted,

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By



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